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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,481	09/08/2003	Richard Chiles	3515.1	2662

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EXAMINER

LIN, JERRY

ART UNIT	PAPER NUMBER
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1631

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,481

Applicant(s)

CHILES ET AL.

Examiner

Jerry Lin

Art Unit

1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 13-20 and 26-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 13-20 and 26-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicants' arguments, filed August 2, 2006, have been fully considered and they are not deemed to be persuasive. The following rejections are reiterated. They constitute the complete set presently being applied to the instant application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 30 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what is meant by "higher resolution". One interpretation is that higher resolution indicates that there are a greater number of pixels in the third pane. Another interpretation is that the third pane provides a magnification of the graphical representation of the second pane.

The term "higher" in claim 30 and 35 is a relative term which renders the claim indefinite. The term "higher" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-11, 13-20, 26-29, 31-34, 36 and 37 are rejected under 35

U.S.C. 102(e)(1) as being anticipated by Neville et al. (US 2005/0196771 A1).

The instant claims are drawn to a method of displaying genotype calls from probe array experiments using emission intensity values.

Regarding claims 1, 14, and 27, Neville et al. disclose receiving one or more sets of emission intensity data that is associated with a probe on a probe array (page 21, paragraph 0219-0220), generating a plurality of genotype calls which are based partially on the emission intensity values and using models (matrices) to specify nucleic acid composition (page 5, paragraph 0033-0034); assembling and displaying the genotype calls in or more planes of a graphical user interface (page 6, paragraph 0051; Figure 16B). Neville et al. also disclose a computer with a memory (page 3, paragraph 0023), and implementing his method through executable code (page 24, paragraph 0252-page 25, paragraph 0254). Furthermore, Neville et al. disclose displaying one or more genotype calls in a first, second and third pane (figure 7, and figure 12A-j).

Regarding claims 2-5 and 15-18, Neville et al. disclose where the emission intensity values are emissions from a scanned probe array (page 21, paragraph 0219-0220); wherein the probes are genotyping probes (page 4, paragraph 0029- page 5, paragraph 0032), sequencing probes (page 21, paragraphs 0218-0221), or SNP probes (page 21, paragraphs 0218-0221).

Regarding claims 6, 7, 19, and 20, Neville et al. disclose where the genotype call includes a A, G, C, T or (n) call (page 32, paragraph 0319) or a SNP call (page 32, paragraph 0319; Figure 17; page 33, paragraph 0331- page 34, paragraph 0333).

Regarding claims 8, 9, 21, and 22, Neville et al. disclose wherein the panes in a tabular format or a graphical format (Figures 1-21).

Regarding claims 10, 11, 23, 24, 29, 34 and 24, Neville et al. disclose wherein the graphical format includes SNP call quality (page 32, paragraph 0327-page 33, paragraph 0329; Figure 20) or genotype calls associated with a representation of a sequence (Figure 12A-J).

Regarding claims 13 and 26, Neville et al. disclose wherein the annotation information is received in response to the user and the annotation information is displayed (page 3, paragraph 0021 - page 4, paragraph 0024).

Regarding claims 28 and 33, Neville et al. disclose wherein the models may be no call, homozygote model, and a herterozygote model (page 32, paragraph 0319)

Regarding claims 31, 32, 36, and 37, Neville et al. discloses wherein any sequence may be inputted, thus allowing a selection of any region of a sequence (page 3, paragraph 0022).

Response to Arguments

The applicants state that Neville et al. does not disclose using a first, second, or third pane as required by claims 1, 14, and 27. The Examiner disagrees. Neville et al. does disclose using multiple panes (Figures 1-21).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Lin whose telephone number is (571) 272-2561. The examiner can normally be reached on 10:00am-6:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang, can be reached on (571) 272-0811. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Representatives are available to answer your questions daily from 6 am to midnight (EST). When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It

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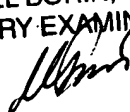
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also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

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MICHAEL BORIN, PH.D
PRIMARY EXAMINER



JL